

## REMARKS

In the Office Action dated September 22, 2004, the Examiner took the following action:

(1) rejected claims 2-3, 5-9, 12-15, 18-23, and 36-39 under 35 U.S.C. § 102(b) as being anticipated by Martinez (U.S. 5,306,223); and (2) rejected claims 4, 16-17, 22, and 40-41 under 35 U.S.C. § 103(a) as being unpatentable over Martinez. Applicant respectfully requests reconsideration in view of the foregoing amendments and the following remarks.

Martinez teaches a pad assembly for an abdominal exercise apparatus having a compressible layer 34 coupled to a pad plate 36. The compressible layer 34 has a non-uniform thickness, and the pad plate 36 is shaped.

Applicant respectfully submits that Martinez fails to disclose, teach, or fairly suggest that the pad plate 36 *is shaped to provide an approximately uniform-thickness compressed portion of the compressible layer when a compression force is applied to the first surface during an exercise* as recited in Applicant's claims 6, 12, 19, and 36. In fact, as best shown in Figure 7 of Martinez, the majority of the compressible layer 34 and the pad plate 36 of Martinez is planar, and would absolutely fail to provide *an approximately uniform-thickness compressed portion of the compressible layer when a compression force is applied to the first surface during an exercise*. While the pad plate 36 of Martinez indeed has a minor amount of curvature near the ends, it is clear that the predominantly planar portions of the compressible layer 34 and the pad plate 36 constitute the majority of the pad assembly which engage with the user during an exercise, and that these planar portions fail to function as recited in claims 6, 12, 19, and 30.

Furthermore, there is also no teaching or suggestion in Martinez of the first surface of the compressible layer 34 (*i.e.* the surface that engages the user during an exercise) being *a concave surface* as recited in Applicant's amended claims 2, 14, 21, and 39.

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## CONCLUSION

For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 2-9, 12-23, and 36-41, and allowance of same. If there are any remaining matters that may be handled by telephone, the Examiner is kindly invited to call the undersigned.

Respectfully submitted,

BLACK LOWE & GRAHAM<sup>PLLC</sup>



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## MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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